

## REQUEST TO WITHDRAW PREMATURELY-ENTERED FINAL REJECTION

This is a request under MPEP § 706.07(d), to withdraw a final rejection that has been entered prematurely. The bases for the request are as follows.

The Office Action dated May 5, 2005 (hereinafter “previous Office Action”) entered rejections of independent Claims 29 and 32 only under 35 U.S.C. § 102(b) over U.S. Patent No. 5,848,397 (Marsh). In response, Applicant traversed the rejections without amendment to the claims. However, the instant Office Action (hereinafter “Office Action”) enters additional rejections of independent Claims 29 and 32 under 35 U.S.C. § 112, first paragraph.

Therefore, the new rejections under § 112, first paragraph are new rejections that were not necessitated by any action of Applicant.

The final rejection should therefore be withdrawn as entered prematurely. See MPEP § 706.07(d). In addition, once the final rejection is withdrawn, entry of this Amendment in whole is also respectfully requested. See MPEP § 706.07(e).

## SECOND REQUEST FOR INTERVIEW

In an effort to advance prosecution, Applicant's representative contacted the Examiner to attempt to arrange an interview, in part to address the deficiency of the Office Action noted above. The Examiner suggested Applicant submit a written response, and Applicant hereby has done so.

Applicant respectfully requests the Examiner contact Applicant's representative after considering the present Amendment and prior to issuing a next action, in order to arrange an interview.

## REMARKS

This application has been carefully reviewed in light of the Office Action dated November 29, 2005. Claims 2 to 11, 14 to 24, 26 and 28 to 34 are in the application. Claims 14, 26, 28, 29, 32 and 33 are independent. Reconsideration and further examination are respectfully requested.

Claims 2 to 11, 14 to 24, 26 and 28 to 33 were rejected under 35 U.S.C. § 112, first paragraph. Specifically, the Office Action states “Beginning at para [0037], the published specification refers to *schedule 120* as if it were a memory element in the Fig 1 apparatus.” (Office Action page 2). In addition, the Office Action indicates that an objection to Figure 1 has been entered.

In this regard, Figure 1 has been amended to include schedule 120, and the specification has been amended to clarify references to schedule 120. In addition, amendments to the claims are believed to obviate the rejections.

While Applicant is unsure of how the Office Action is interpreting schedule 120, and in particular, the meaning of “memory element” in the Office Action is unclear, Applicant asserts that the meaning of schedule 120 is clear to one of ordinary skill in the art of computer programming, and that the claims are fully supported by the specification. For example, the specification discloses “scheduling items of information in accordance with the values of said priorities” (paragraph [0007]), “clearing said scheduled items of information” (paragraph [0008]), “the schedule is cleared” (paragraph [0030]), and other such disclosures. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Claims 2 to 11, 14 to 24, 26 and 28 to 33 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,848,397 (Marsh). The rejections are respectfully traversed.

The present invention relates to scheduling the display of items of information on a display apparatus. Among other features, when a user interacts with a user interface of a display apparatus, a user interrupt is generated and scheduled items of information are cleared from a schedule. An estimated time of when the user will finish interacting with the user interface is determined, the estimating being performed repeatedly until the user interaction with the user interface is finished. For each estimated time, the items of information are rescheduled in the schedule for display in accordance with priority values at the estimated time. If the user is not interacting with the user interface at the estimated time, the items of information are displayed as scheduled.

By clearing items of information from the schedule in response to a user input, and rescheduling in accordance with priority values at an estimated time the user will finish interacting with the user interface, the present invention more effectively prioritizes items of information. In this way, the present invention can help reschedule items of information around unpredictable user interaction to display the most effective item of information at a particular time.

With specific reference to the claims, independent Claim 14 defines a computer-executable method of displaying items of information on a display apparatus comprising a display unit and a user interface. Each item of information has an associated priority which is a function of time. The method comprises scheduling items of information in a schedule in accordance with values of the priorities, the scheduling determining an order for displaying the items of information on the display apparatus. The

method also comprises generating a user interrupt in response to a user interacting with the user interface, and clearing the scheduled items of information from the schedule in response to the user interrupt. The method also comprises estimating a time when the user will finish interacting with the user interface, the estimating being performed repeatedly until the user interaction with the user interface is finished. The method also comprises, for each estimated time, rescheduling items of information in the schedule for display on the display apparatus in accordance with the values of the priorities at the estimated time, and displaying the information as scheduled, if the user is not interacting with the user interface at the estimated time.

Independent Claims 26 and 28 are apparatus and computer readable medium claims, respectively, that correspond generally the method of independent Claim 14.

The applied reference is not seen to disclose or suggest the features of independent Claims 14, 26 and 28, and in particular, is not seen to disclose or suggest at least the features of (1) clearing scheduled items of information from a schedule in response to a user interrupt, (2) estimating a time when the user will finish interacting with the user interface, the estimating being performed repeatedly until the user interaction with the user interface is finished, and (3) displaying the information as scheduled, if the user is not interacting with the user interface at the estimated time.

Marsh relates to scheduling the presentation of advertisements to computer users by assigning the advertisements to one of a plurality of advertisement queues and sorting the advertisements in a queue by predetermined characteristics. (See column 8, line 54 to column 9, line 6 and Figure 6 of Marsh). Specifically, a message display scheduler 700 stores advertisements for display in a plurality of queues,  $Q_0, Q_1, \dots, Q_n$ , as shown in

Figure 6. Scheduler 700 steps through each queue, presents each advertisement sequentially for a predetermined period of time, and then repeats the process. (See Figure 7 and column 9, lines 9 to 21). In addition, Marsh mentions that a user may request additional information by clicking on a specified portion of a banner advertisement.

The Office Action asserts that Marsh discloses “clearing the main screen of the showcase ad items on (sic) information in response to the user interrupt (in order to provide the user with the requested *additional information*, col. 7 lines 55-57).” (Office Action, page 3 (emphasis in original)). However, Marsh does not disclose or suggest “clearing the main screen of the showcase ad items . . . in order to provide the user with the requested additional information.” On the contrary, with specific reference to the portion of Marsh cited in the Office Action, Marsh discloses:

“The banner advertisement 601 may be interactive. For example, by clicking on a specified portion of the banner advertisement 601, the user may be provided with additional information concerning the subject matter of the banner advertisement 601.” (column 7, lines 53 to 57 of Marsh).

While Marsh discloses “the user may be provided with additional information concerning the subject matter of the banner advertisement,” Marsh does not disclose “clearing the main screen of the showcase ad items” to provide the user with the requested additional information, contrary the Office Action’s assertion.

However, even assuming Marsh’s system clears the main screen, Marsh is not seen to disclose or suggest clearing scheduled items of information from a schedule in response to a user interrupt. Rather, Marsh’s message display scheduler 700 stores

advertisements for display in a plurality of queues,  $Q_0, Q_1, \dots Q_n$ , steps through each queue, presents each advertisement sequentially for a predetermined period of time, and then repeats the process. Accordingly, Marsh is not seen to disclose or suggest clearing scheduled items of information from a schedule, much less disclose or suggest clearing scheduled items of information from a schedule in response to a user interrupt.

In addition, the Office Action asserts Marsh discloses “monitoring the time between keystrokes (col. 9 lines 28-31), which reads on estimating a time when the user will finish interacting with the user interface (the monitoring interval reads on the time estimate).” (Office Action, page 3). The Office Action further asserts, “monitoring the time between keystrokes (reads) on estimating a time when the user will finish interacting with the user interface.” (Office Action, page 4).

However, the Office Action’s assertion that monitoring a time between keystrokes “reads on” estimating a time when a user will finish interacting with a user interface, without more, fails to establish “[t]he identical invention (is) shown in as complete detail as is contained in the ... claim.” (See MPEP § 2131 (citations omitted)). In particular, with specific reference to the portion of Marsh cited in the Office Action, Marsh discloses:

“scheduler 700 monitors the client system 101 for extended periods of inactivity (i.e., the time between key strokes) and “times out” if there is no activity within a predetermined period of time (e.g., five minutes).” (column 9, lines 29 to 32 of Marsh).

In contrast, independent Claim 14 recites:

“estimating a time when the user will finish interacting with  
the user interface, said estimating being performed  
repeatedly until the user interaction with the user interface is  
finished”

On their face, independent Claim 14 and Marsh are clearly different; therefore, simply asserting that this disclosure of Marsh “reads on” the claim is insufficient to support the rejection. Accordingly, the rejection is traversed.

In addition, Applicant disagrees with the Office Action’s assertion that Marsh’s monitoring for extended periods of inactivity corresponds to estimating a time when the user will finish interacting with the user interface. Moreover, even assuming Marsh’s system could somehow be viewed as estimating a time when the user will finish interacting with the user interface (none of this is conceded), Marsh is not seen to disclose or to suggest displaying the information as scheduled, if the user is not interacting with the user interface at the estimated time. On the contrary, Marsh discloses:

“scheduler 700 . . . “times out” if there is no activity within a  
predetermined period of time (e.g., five minutes). This is a  
highly-desirable feature from the standpoint of advertisers,  
who understandably do not want to be billed for  
advertisements that are presented on an unattended video  
display monitor.” (column 9, lines 29 to 36 of Marsh).

Therefore, contrary to the Office Action’s assertion, Marsh is not seen to disclose or to suggest displaying the information as scheduled, if the user is not interacting with the user



interface at the estimated time. Accordingly, independent Claims 14, 26 and 28 are believed to be allowable.

Turning to independent Claims 29, 32 and 33, Applicant directs the Examiner's attention to prior arguments in support of patentability in the Amendment dated September 6, 2005. In addition, Applicant requests that, if the rejections of Claims 29, 32 and 33 are maintained, the Examiner is requested to provide a clear explanation of his interpretation of Marsh, in keeping with the statutory mandate of 35 U.S.C. § 132 and the guidelines of MPEP § 707.07(f). This is a second request.

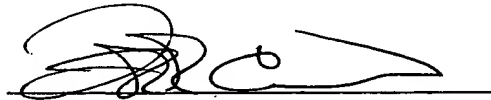
Allowance of Claims 29, 32 and 33 is respectfully requested.

The other claims in the application are each dependent from the independent claims and are believed to be allowable over the applied references for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicant's undersigned attorney may be reached in our Costa Mesa,  
California office at (714) 540-8700. All correspondence should continue to be directed to  
our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank L. Cire', is written over a horizontal line.

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